

MOTION BY CHAIR HILDA L. SOLIS

October 18, 2016

Filing an Amicus Curiae Brief in Exide Technologies v. California Department of Public Health

Currently, the California Department of Public Health ("CDPH") is defending a lawsuit brought by Exide Technologies ("Exide"), which owned and operated a lead acid battery recycling plant in Los Angeles County. Exide is attempting to compel CDPH to provide Exide with certain residential information regarding 720 children who live near the now-closed Exide facility and have elevated blood lead levels. Exide is attempting to obtain this information for use in conjunction with other publicly available information to learn the true identities of these children and their families in an attempt to limit its liability after spewing lead and other hazardous substances into the surrounding community for the past 30 years.

Medical providers are required to report blood tests that find an elevated blood lead level to CDPH. This information is then shared with the County's Childhood Lead Poisoning Prevention Program ("CLPPP") to allow County public health staff to provide medical and environmental health intervention for that child and their family. The child's medical information and other protected health information are confidential and not subject to public disclosure. Exide's lawsuit attempts to erode these privacy protections.

A negative ruling by the Superior Court judge, while not having a precedential effect, would allow Exide to re-victimize the community by alleging these children were poisoned by other sources of lead, rather than attributable to Exide's battery recycling operations. CDPH has requested the County of Los Angeles, and other public entities to provide support by filing amicus briefs with the Superior Court.

The County of Los Angeles, home of the communities affected by Exide, needs to have its voice heard, by filing an amicus brief in the Contra Costa Superior Court.

MOTION

RIDLEY-THOMAS _____

KUEHL _____

KNABE _____

ANTONOVICH _____

SOLIS _____

I THEREFORE MOVE THAT THE BOARD OF SUPERVISORS:

Direct County Counsel to file an amicus brief, and allow other interested California public entities to sign onto that amicus brief in the Exide v. CDPH litigation in support of CDPH's position to maintaining the medical privacy of 720 children who live near the now-closed Exide facility.

AND FURTHER MOVE THAT

If this case is appealed in the future, County Counsel is directed to file or join other California public entities in filing amicus brief before the California Court of Appeal in support of CDPH.

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HLS:bp